

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

November 5, 2009

Charles R. Fulbruge III
Clerk

No. 08-30995
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

TIMMIE FORD,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 5:97-CR-50040-1

Before BENAVIDES, PRADO, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

Timmie Ford, federal prisoner # 09615-035, filed a motion for a reduced sentence pursuant to 18 U.S.C. § 3582(c)(2) in which he sought a sentence reduction based on Amendment 706 to the Federal Sentencing Guidelines, which reduced the base offense level for most crack cocaine offenses. Ford appeals the district court's denial of that motion.

Ford's argument that *United States v. Booker*, 543 U.S. 220 (2005) applies in the context of § 3582(c)(2) proceedings is unavailing in light of *United States*

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

v. Dublin, 572 F.3d 235, 238-39 (5th Cir. 2009). Also, Ford's sentence was based upon the career offender guideline. Because Ford's guidelines range was not derived from the quantity of crack cocaine involved in the offense, Ford was not sentenced based on a sentencing range that was lowered by the Sentencing Commission through Amendment 706. The district court therefore did not err in denying Ford's § 3582(c)(2) motion. *See* § 3582(c)(2); U.S.S.G. § 1B1.10(a)(2)(B).

AFFIRMED.